

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

VINCENT CRAIG POWELL, #1394622,

FILED
JUN 16 2017
CLERK, US DISTRICT COURT NORFOLK, VA

Petitioner,

v.

ACTION NO. 2:16cv405

DEPARTMENT OF CORRECTIONS,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions for attempted robbery, conspiracy to commit robbery, possession of a sawed-off shotgun, maliciously shooting into an occupied dwelling, and use of a firearm in the commission of a felony on October 30, 2014, in the Circuit Court of Portsmouth. As a result of the convictions, petitioner was sentenced to serve a total of 33 years in prison with two years suspended, leaving an active sentence of 31 years.

The matter was referred to a United States Magistrate Judge for Report and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation filed May 5, 2017 recommends dismissal of the petition. Each party was advised of his right to

file written objections to the findings and recommendations made by the Magistrate Judge. On May 30, 2017, the court received petitioner's Objections to the Report and Recommendation. The respondent filed no response to the objections and the time for responding has now expired.

The court, having reviewed the record and examined the objections filed by petitioner to the Report and Recommendation, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation filed May 5, 2017. It is, therefore, ORDERED that Respondent's Motion to Dismiss be GRANTED and the Petitioner's petition be DENIED and DISMISSED with prejudice.

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk is directed to mail a copy of this Final Order to petitioner and provide an electronic copy of the Final Order to counsel of record for respondent.

-RBS /s/

REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

June 16, 2011